

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
ALTS' Request for Clarification of the) CCB/CPD 97-30
Commission's Rules Regarding Reciprocal)
Compensation for Information Service)
Provider Traffic)

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FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS

Sprint Corporation hereby respectfully submits its comments in the above-captioned proceeding in response to a letter from the Association for Local Telecommunications Services (ALTS) requesting clarification of the Commission's rules regarding reciprocal compensation for information service provider (ISP) traffic. ALTS states (p. 1) that several ILECs have refused or are threatening to refuse to pay CLECs for ISP calls made from within a local calling area under existing reciprocal compensation agreements.¹ ALTS requests clarification that the Commission's *Local Competition Order*² does not require that such ISP calls -- which, under long-standing Commission rules, are considered local -- be treated differently from other local traffic, and that such ISP calls continue to be eligible for reciprocal compensation under existing agreements.

¹ The Sprint local telephone companies have also encountered this problem in their interconnection negotiations with other ILECs.

² *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996).

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Sprint agrees with ALTS that nothing in the Commission's *Local Competition Order* warrants a change in the treatment of local calls to ISPs or suspension of reciprocal transport and termination compensation for such calls. As ALTS correctly points out (p. 5), the Commission's rationale for excluding interexchange traffic from reciprocal compensation agreements was based on concerns about preserving ILECs' existing access revenue flows and maintaining states' authority over local calling areas,³ neither of which is relevant to ISP traffic. Although ISP calls may be jurisdictionally interstate, they have always been treated differently than inter-exchange voice traffic. ISPs are not assessed interstate access charges for their enhanced services calls; instead, the ISP pays local business line rates plus the subscriber line charge. Therefore, the transport and termination of calls to an ISP between any and all LECs should be subject to the reciprocal compensation requirements of Sections 251(b)(5) and 252(d)(2), which govern local traffic, rather than to Sections 201 and 202, which govern access charges assessed on interstate long-distance traffic (*Local Competition Order*, para. 1033).

Southwestern Bell bases its claim that ISP calls are purely interstate and thus ineligible for reciprocal compensation on a ruling by the Commission that switching performed at an IXC credit card switch was an intermediate step in a single end-to-end communication.⁴ However, that decision is inapplicable to the ISP traffic at issue here. Unlike the credit card traffic, calls to an ISP terminate at the ISP modem pool (at which point answer supervision is returned) and at that point the call is considered completed – it is not subject to any intermediary switching. The

³ *Local Competition Order*, paras. 1034-5.

⁴ Letter from L. Cooper, SWB, to E. Cadieux, Brooks Fiber Properties, dated June 9, 1997, p. 1.

ISP then originates a second call to the distant database being accessed. If the ISP is connected to one LEC's switch using a B-1 line (as is typical), a call from an end user of the same or another LEC within the same local or mandatory EAS calling area is a local call and local compensation applies. If the originating party places the call from an exchange that in relation to the terminating location is normally a toll call, the originating caller should be billed the applicable toll charges and any settlement between LECs would be consistent with any intraLATA toll settlements on a state-by-state basis. The fact that the call terminates to an ISP local service line rather than an individual residential or business subscriber line does not change the treatment of the call for call terminating charges, *i.e.*, local compensation for local and mandatory EAS calls, and toll compensation for toll calls.

In its *Access Reform Order*,⁵ which was released a year after the *Local Competition Order*, the Commission reaffirmed the historic treatment of enhanced services traffic and stated that even when ISPs use ILEC facilities to originate and terminate interstate calls, ISPs "may purchase services from incumbent LECs under the same intrastate tariffs available to end users" (para. 342). It added that "[m]aintaining the existing pricing structure for these services avoids disrupting the still-evolving information services industry and advances the goals of the 1996 Act to 'preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation'" (*id.*, para. 345). The Commission concluded that "ISPs should remain classified as end users for purposes of the

⁵ *Access Charge Reform* (CC Docket No. 96-262), *Price Cap Performance Review for Local Exchange Carriers* (CC Docket No. 94-1), *Transport Rate Structure and Pricing* (CC Docket No. 91-213), *End User Common Line Charges* (CC Docket No. 95-72), *First Report and Order* released May 16, 1997 (FCC 97-158).

access charge system” (*id.*, para. 348). Given this very recent affirmation of ISPs’ regulatory status and the applicable charges which ISPs must pay for their use of the ILEC network, it is difficult to imagine that the Commission intended that the *Local Competition Order* be interpreted as the BOCs have done, *i.e.*, that ISP calls within a local calling area which are exchanged between a CLEC and an ILEC, or between two ILECs,⁶ should be considered interstate in all respects and thus ineligible for reciprocal compensation.


ALTS also suggests (p. 7) that although two RBOCs, Bell Atlantic and Nynex, will refuse to honor reciprocal compensation agreements for local ISP calls exchanged with CLECs, they will continue to honor such agreements for local ISP calls exchanged with adjacent LECs. Such discriminatory treatment, if it is occurring as suggested by ALTS, will impede the development of local competition (*e.g.*, by discouraging ISPs from using the network facilities of a carrier other than the incumbent LEC) and should not be allowed. Any Commission ruling as to the scope of reciprocal compensation agreements for local calls to ISPs should set forth consistent rules for compensation of traffic exchanged between two ILECs as well as between an ILEC and a CLEC.

⁶ As noted above, it has been the experience of the Sprint local operating companies that several ILECs have refused to treat ISP traffic as local for reciprocal compensation purposes in ILEC-to-ILEC negotiations as well.

For the reasons cited above, the Commission should issue a letter clarifying that calls to an ISP made from within a local calling area should be treated as a local call, subject to reciprocal compensation agreements.

Respectfully submitted,

SPRINT CORPORATION

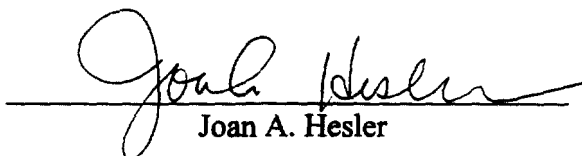


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMMENTS OF SPRINT CORPORATION** was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 17th day of July, 1997 to the below-listed parties:



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